

4:02 pm, Sep 27, 2018

U.S. DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
LONG ISLAND OFFICE

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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NATIONSTAR MORTGAGE LLC,,

Plaintiff,

-against-

MEMORANDUM OF
DECISION & ORDER
2:16-cv-05501 (ADS) (AYS)

JUSTIN MULLANY; JENNIFER SCHROFF
a/k/a JENNIFER MULLANY, and said "JOHN
DOE" said name being fictitious, it being the
intention of Plaintiff to designate any and all
occupants of premises being forecloses herein,
and any parties, corporations or entities, if any,
having or claiming an interest or lien upon the
mortgaged premises,

Defendants.

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APPEARANCES:

Shapiro, DiCaro & Barak, LLC

Counsel for the Plaintiff

175 Mile Crossing Boulevard

Rochester, NY 14624

By: John A. Dicaro, Esq., Of Counsel.

John Ray & Associates

Counsel for Defendant Schroff a/k/a Jennifer Mullany

122 N. Country Road

Miller Place, NY 11764

By: Vesselin Venelinov Mitev, Esq., Of Counsel.

SPATT, District Judge:

On October 3, 2016, plaintiff Nationstar Mortgage, LLC (the "Plaintiff") commenced this foreclosure action against defendants Justin Mullany ("Mr. Mullany"), Jennifer Schroff a/k/a Jennifer Mullany ("Ms. Schroff"), and John Doe (together the "Defendants"), seeking, among

other things, to foreclose on a mortgage encumbering the real property located at 20 Bell Avenue, Blue Point, NY 11715 (the “Subject Property”). ECF 1.

After the Defendants failed to answer or otherwise respond, the Clerk of the Court entered default against them on February 12, 2018. ECF 11.

On March 9, 2018, the Plaintiff filed the instant motion for default judgment and to amend the caption to delete Defendant “John Doe.” ECF 12.

On April 7, 2018, the Court referred the motion to United States Magistrate Judge Anne Y. Shields for a recommendation as to whether the motion should be granted, and if so, “the relief to afforded.” Electronic Order dated 04/07/2018.

On September 10, 2018, Judge Shields issued a Report and Recommendation (the “R&R”) recommending the following:

[T]he Court recommends that Plaintiff’s motion to amend the caption and dismiss Defendant John Doe be granted. The Court further recommends that the motion for default judgment be granted and that Plaintiff be awarded:

- 1) \$321,443.27 to recover for the unpaid principal balance under the Note;
- 2) \$35,998.39 to recover for unpaid interest through the date of this Report and Recommendation;
- 3) Per diem pre-judgment interest in the amount of \$45.13 per day until judgment is entered;
- 4) Post-judgment interest pursuant to 28 U.S.C. § 1961(a);
- 5) \$2,010.00 to recover for costs and disbursements; and
- 6) \$3,500 in attorneys’ fees.

The Court further recommends that an Order similar to Plaintiff’s Proposed Judgment of Foreclosure and Sale, but consistent with the instant Report and Recommendation, be entered and that a referee be appointed to effectuate the sale.

ECF 18 at 15-16.

The Plaintiff filed proof of service on September 12, 2018. ECF 19.

It has been more than fourteen days since the service of the R&R, and the parties have not filed objections.

As such, pursuant to 28 U.S.C. § 636(b) and Federal Rule of Civil Procedure 72, this Court has reviewed the R&R for clear error, and finding none, now concurs in both its reasoning and its result. *See Coburn v. P.N. Fin.*, No. 13-CV-1006 (ADS) (SIL), 2015 WL 520346, at *1 (E.D.N.Y. Feb. 9, 2015) (reviewing Report and Recommendation without objections for clear error).

Accordingly, the R&R is adopted in its entirety. The Plaintiff's motion to amend the caption and dismiss Defendant John Doe is granted. The Plaintiff's motion for default judgment is granted. The Plaintiff is awarded damages in the amounts explained in the R&R, and is directed to file a revised Proposed Judgment of Foreclosure and Sale consistent with the R&R.

SO ORDERED.

Dated: Central Islip, New York

September 27, 2018

_____/s/ Arthur D. Spatt_____

ARTHUR D. SPATT

United States District Judge